

815 KAR 25:100. Alternative dispute resolution and mediation program.

RELATES TO: KRS 13B, 227.550, 227.640(4)

STATUTORY AUTHORITY: KRS 227.590(1), 227.640(4)

NECESSITY FUNCTION AND CONFORMITY: KRS 227.590(1) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations to effectuate the provisions of KRS 227.550 to 227.660. KRS 227.640(4) requires the department to establish a dispute resolution process that may be used prior to a formal hearing under KRS Chapter 13B. This administrative regulation establishes a mediation process for dispute resolution.

Section 1. Kentucky Manufactured Housing Mediation Program. The department shall administer the Kentucky Manufactured Housing Mediation Program.

Section 2. Eligibility for Mediation. (1) A consumer, applicant, or a licensee subject to disciplinary action under KRS 227.640, may request mediation prior to a formal hearing under KRS Chapter 13B.

(2) A request to mediate shall be submitted to the department in writing.

Section 3. Mediation Procedures. (1) Mediations shall be conducted by the Office of Administrative Hearings within the Public Protection Cabinet.

(2) Mediations shall be scheduled by the Office of Administrative Hearings within the Public Protection Cabinet at a time agreed upon by all participants.

(3) The mediation may be rescheduled with written agreement of all participants.

(4) If the mediator initially assigned has a conflict of interest, the mediator, or the participants, shall request an alternate mediator from the Office of Administrative Hearings within the Public Protection Cabinet.

(5) Mediation shall proceed only if each participant is present and has full settlement authority. The participants shall be responsible to ensure that all necessary persons are present at the mediation.

(6) Participation in the mediation shall constitute an agreement by the participants that all offers of compromise, promises, or statements made in the course of the mediation shall not be offered at any subsequent hearing or trial relating to the subject matter of the dispute unless otherwise discoverable.

(7) The content of the mediation shall remain confidential as permitted by state and federal law.

(8) The mediator shall not be subject to participation or subpoena in subsequent proceedings regarding the matter mediated.

(9) Following successful mediation, an agreement shall be prepared at the direction of the mediator and executed by the participants.

Section 4. Costs of Mediation. Cost of mediations conducted pursuant to this administrative regulation shall be divided equally among the participants. (36 Ky.R. 955; 1227; 1-4-2010; 45 Ky.R. 827, 1560; eff. 1-4-2019.)